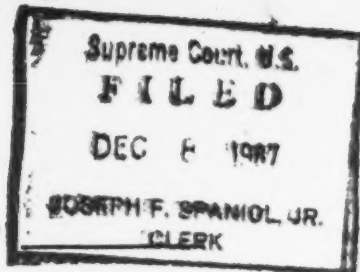


187-1385



NO

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IN THE  
SUPREME COURT OF THE UNITED STATES  
COTOBER TERM, 1987

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HELMUT RAMPP, et ux.,

Petitioners,

v.

LUZERNE COUNTY ASSESSMENT AND  
VALUATION BOARD,

Respondents,

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PETITION FOR A WRIT OF CERTIORARI  
TO THE SUPREME COURT OF PENNSYLVANIA

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BY: HELMUT RAMPP,  
R.D. #1, Box 275A  
Hunlock Creek, Pa.  
19621

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2511



QUESTION PRESENTED FOR REVIEW

1. Whether the taxation of the Cottage (cottage # 33) within the Patterson Grove Meeting Grounds, located in the Township of Fairmont, County of Luzerne, State of Pennsylvania, is a violation of the "establishment" clause of the First Amendment to the Constitution of The United States ?



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No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

HELMUT RAMPP, et ux,  
Petitioners,

v.

LUZERNE COUNTY ASSESSMENT AND  
VALUATION BOARD,  
Respondents,

---

PETITION FOR WRIT OF CERTIORARI TO  
THE SUPREME COURT OF PENNSYLVANIA

The Petitioners, Helmut Rampp and  
Judith Rampp, respectfully entreat this  
Honorable Court, that a writ of certiorari  
issue to the Supreme Court of Pennsylvania,  
to review the judgment of that court entered  
on the date, September 18th, 1987.

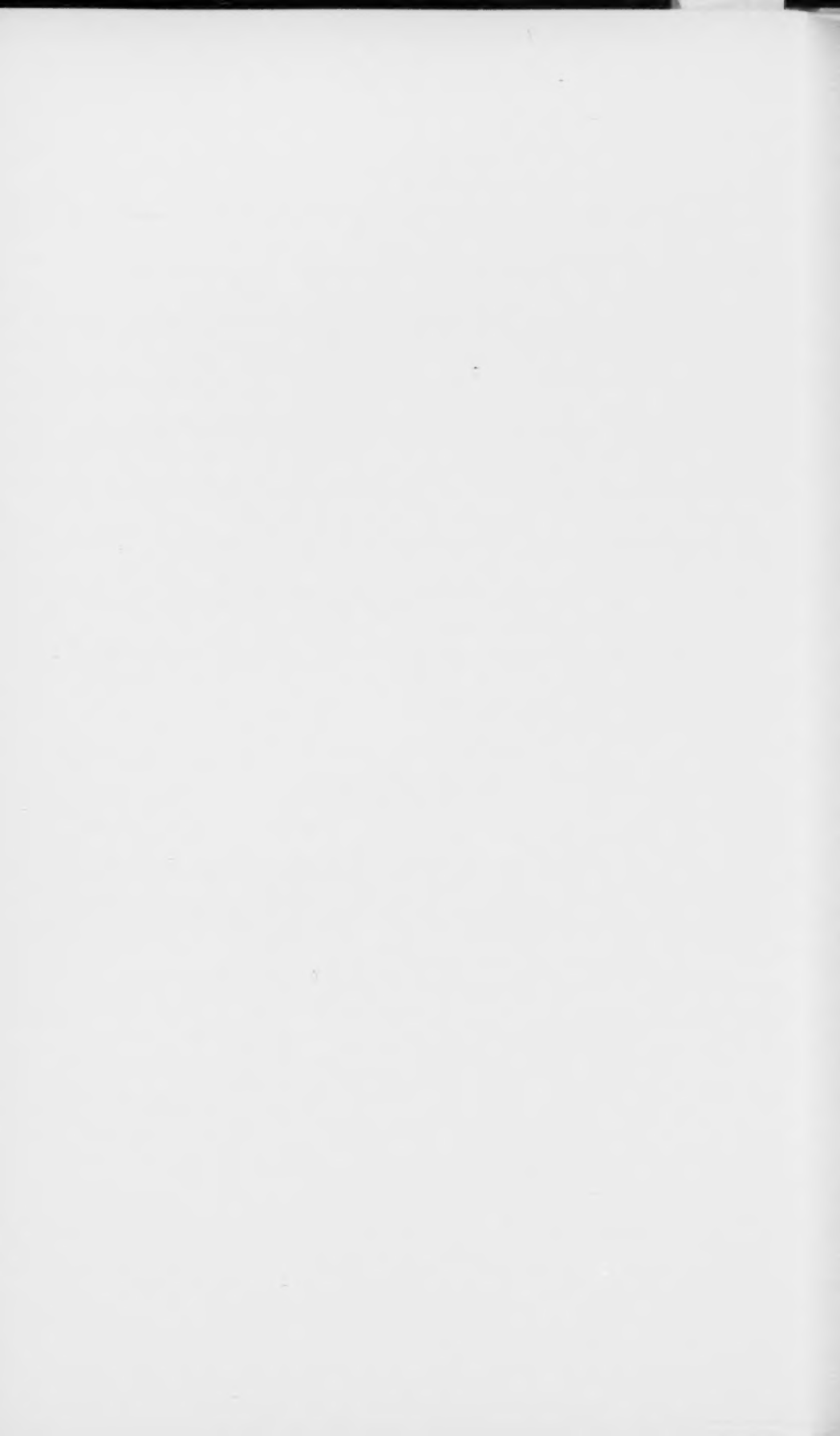
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### OPINION BELOW

The Supreme Court of Pennsylvania entered an Order of Court on the date September 18, 1987, denying the Petitioners' Petition for review in that court, and did in fact treat same as a Petition for Allowance of Appeal. A certified copy of such Order is appended to this Petition, and marked as Appendix "A", said Order of the 18th, of September denied the Petitioner in the court below without any further comment.

### JURISDICTION

The jurisdiction of this court is invoked pursuant to Title 28 U.S.C. §§ 1257(3); 2101(c)



CONSTITUTIONAL PROVISION INVOKED

United States Constitution, Amendment I :

Congress shall make no law  
respecting an establishment  
of religion, or prohibiting  
the free exercise thereof,



## STATEMENT OF THE CASE

This case originally was before the Court of Common Pleas, County of Luzerne, State of Pennsylvania, Brominske, J., and docketed at Misc. Ct. Docket Civil No. 4858-C of 1985.

Subsequent to the ruling in the Court of Common Pleas, the case then went to the Commonwealth Court of Pennsylvania, The Hon. Kalish, J., presiding.

As was set forth above, this matter originally was before the court of Common Pleas of Luzerne County, State of Pennsylvania, then on appeal from a decision of the Board of Assessment of Luzerne County, denying the Petitioners' appeal from assessment for the yeat 1986.

On November 8th, 1985, Helmut Rampp and Judith Rampp, filed an appeal from a determination of the County Board of Assessment and Appeals.





The gravamen of that appeal turned upon the issue as to the ownership of the Cottage in question, to wit: Cottage # 33, of the Patterson Grove Camp Meeting Grounds in Fairmont Township, Luzerne County, Pennsylvania.

The original denial by the Board of Assessment and Appeals for the County of Luzerne was on the date, October 10th, 1985, the subsequent appeal to the County Court of Common Pleas then followed.

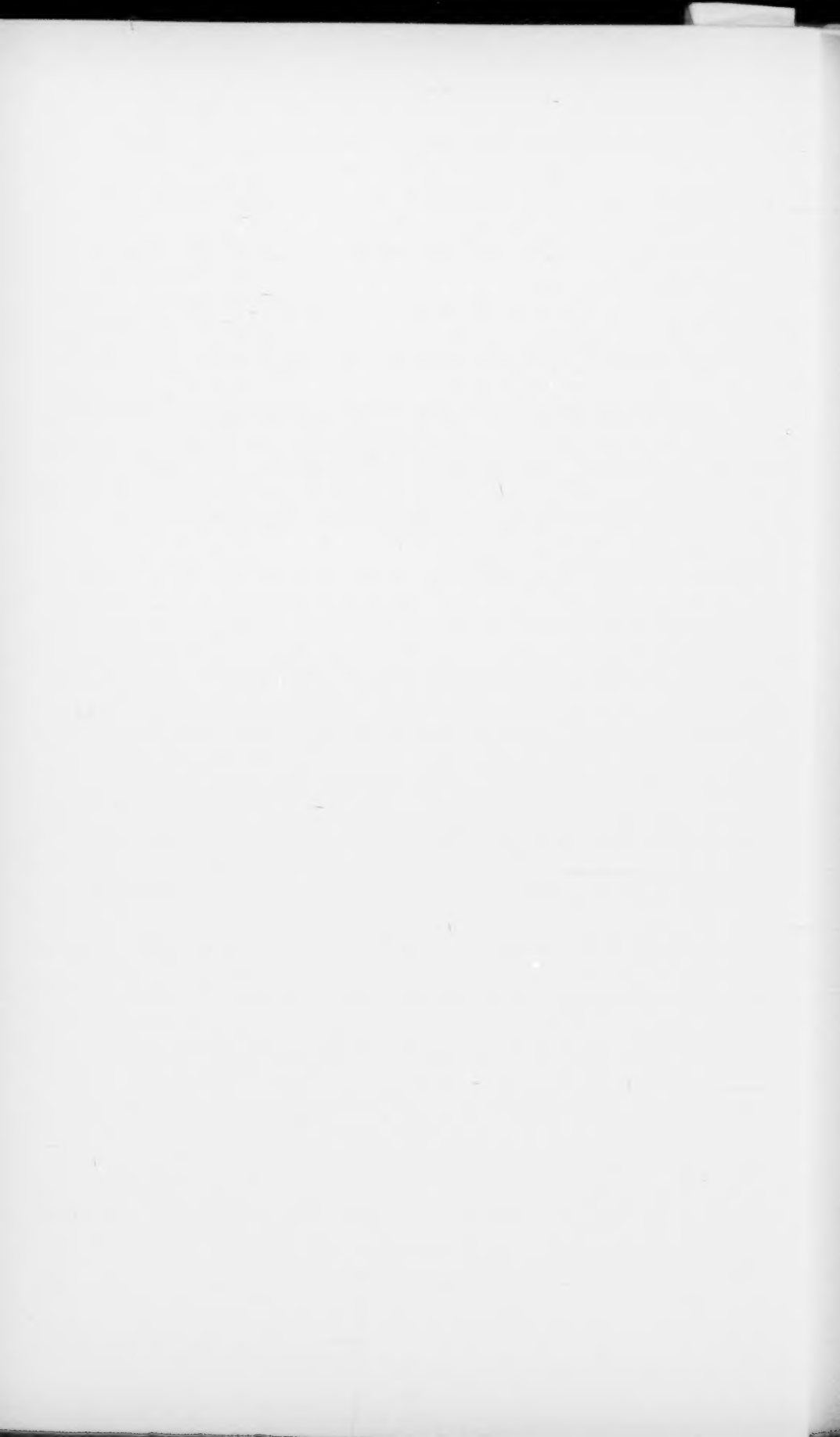
On March 17th, 1977, the Petitioners' purchased an equitable interest in a cottage designated as Cottage #33 at the Paterson Grove Camp Grounds.

On or about the same date, the Patterson Grove Camp Meeting Association leased to the Petitioners, property known as Lot No. 33. Said lease was for a period of one year and would automatically renew itself annually upon payment of the rent thereon. Additionally, further conditioned upon the leasee's adherence to the rules of the association.



The aforesaid Grove Association Camp Meeting land is located in the Township of Fairmaon, County of Luzerne, state of Pennsylvania. It is on approx. twenty-seven point seven (27.7) acres of land and consists of one-hundred and two (102) individual buildings one and two story cottages.

The Cottage in question, Cottage #33, consists of two rooms, one upstairs for sleeping and one down stairs room. There is no heat in the building on the property and just recently were there septic systems installed. In accordance with the rules of the Grove Association the Petitioners can use the property (cottage) only within the time period from April through October. Incident to the proceedings in the court of Common Pleas, there was testimony taken pertaining to the usage of the Cottage. Such testimony, did in fact, specifically set forth the two week period of usage by the Petitioners in the month of August.



The custom of the Camp Meeting Ass. at that time is to hire a special pastor subject to the approval of the Board. In addition thereto, the Board will hire an Evangelist and a youth leader for the children, All the aforementioned, consistent with the intent of the Grove Ass.'s function in keeping with an all ubiquitous religious atmosphere.

Durring the two week period of the camp meeting, no other activities are permitted. Working on a cottage, mowing grass, riding bicycles and going swimming are not allowed. It has been set forth in testimony, in the court of Common Pleas, that, the Petitioners purchased the interest in the Cottage, specifically for use in conjunction with the Camp Meeting Religious function.

The assessment upon the cottage is objected to, and raises two basic arguments. The additional contention was raised as to the assment being capricious, specifically because:



i.           The Petitioners own no land, and do not own an interest in real estate, but on the contrary, simply own a right to make a lease with the landowner (Patterson Grove Ass.), which is in fact terminable at the will of such landowner.

ii.           The imposition and assessment of a tax is in fact a violation of the separation of Church and state doctrine.

Consistent with the foregoing, the religious services include a Bible School and study for the children and adults, plus evening church services. The Church services are conducted in the camp meeting tabernacle which can be heard from the porch of the Cottage. Petitioners also sleep and eat at the cottage and there are discussions about the religious happenings of the day. The function of the cottage then is absolutely necessary and imperative for the conduct of religious functions, consistent with the atmosphere of the Grove.





The Appeal must of necessity, center upon the function of the Cottage, and thus, the status, for tax purposes of Cottage #33. The Petitioners contend that the cottage is used exclusively for a religious purpose, and therefore is exempt from any taxation, whatsoever.

REASON FOR GRANTING  
OF THE WRIT.

Where the Petitioners use of the Cottage No. 33 is purely a religious one, and further as the cottage must of necessity be used within the guidelines set forth by the rules and regulations of the Grove Ass., the cottage then becomes an essential and necessary function of the ubiquitous religious atmosphere at the Camp Meeting Grounds. Any departure from the rules and regulations of the Ass. will subject the Petitioners to exclusion from the Camp Meeting Grounds, by the mutually agreed upon stipulations in the lease agreement.



The Cottage is not allowed to be used for any usage by the Petitioners not given the prior approval of the Grove Ass. As such the usage of the Cottage is controlled by the Grove Ass., and that Ass., being motivated specifically by religious principles, any activity not consistent with the Groves' predetermined religiously governed allowances, will not be given permission to take place.

The overwhelming consideration here is, that, absolutely no activity whatsoever will be permitted by the Grove Ass., that of which, does not exist as being a religious one, or in the lesser standard, supportive of some religious activity.



## DISCUSSION

An overwhelming, and salient point to be kept in mind, as the court considers this petition for a writ of certiorari, is the undisputed fact, that, the Grove Ass., as well as the cottages thereon, have in fact had a prior history of tax exempt status for the past one-hundred-fifteen (115) years. That point alone should suffice as to amount to sufficient legal precedent for this Court to issue a writ.

Petitioners. make the Court aware of the following points, as they are in fact, characteristics of a tax:

- i. a pecuniary burden laid upon individuals for the support of the government.
- ii. an essential characteristic of any tax is that it is not voluntary.
- iii. a tax is in fact, an enforced contribution.
- iv. an enforced contribution, exacted pursuant to legislative authority.
- v. compensation paid to the gov , ernment for support.



- vi. it is an enforced contribution of money or other property, assessed in accordance with some reasonable rule or apportionment by authority of a sovereign.

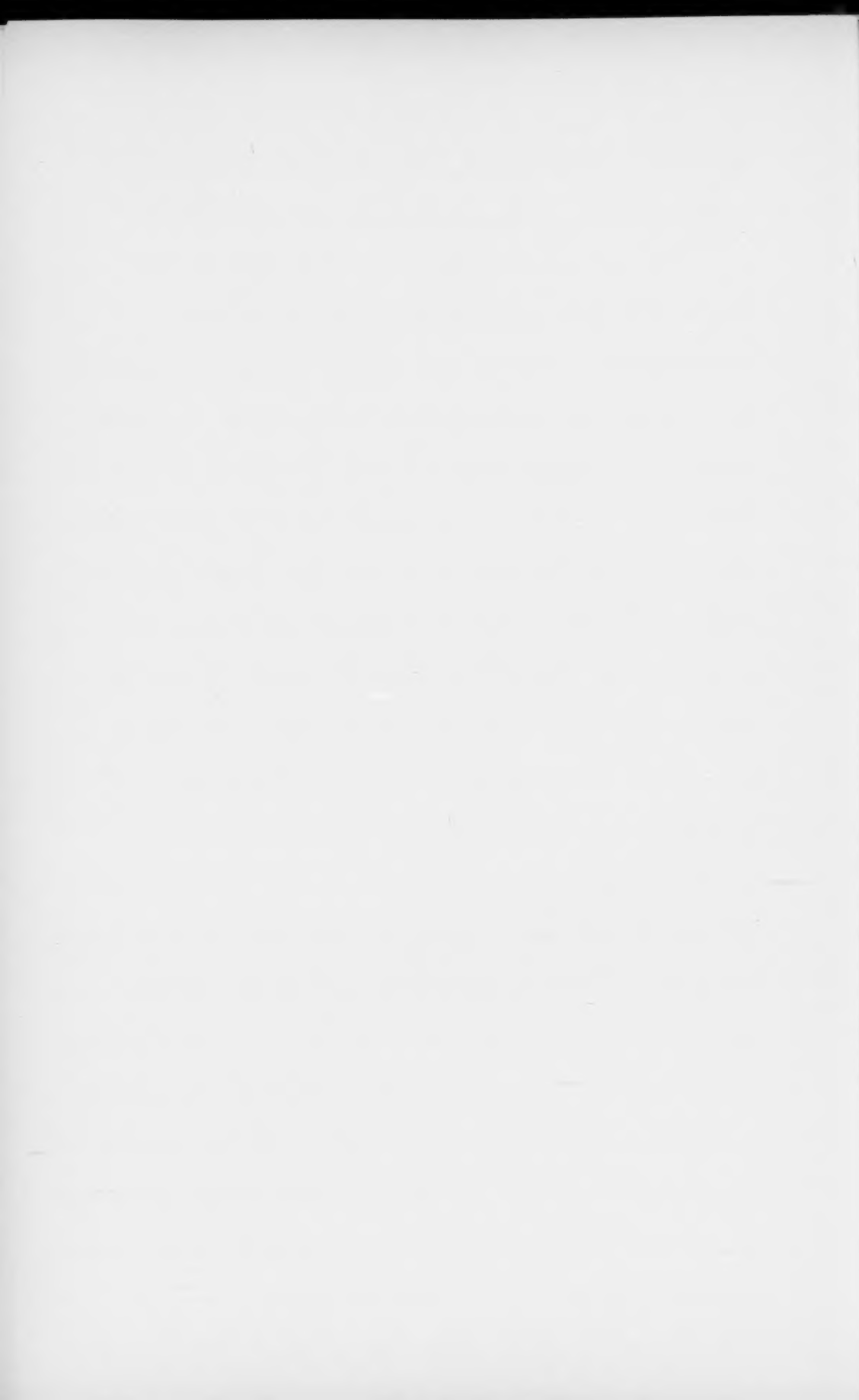
An essential characteristic of a tax is: a pecuniary burden, and as such, is manifest proof of the harsh burdensome facet of what a tax really is. vide., In Re Mytinger, D.C. Tex., 31 F.Supp., 977 et seq. The fact that, a tax is by its very nature, "not voluntary" exhibits yet another facet of a tax, that of which is abhorrent by its very essence. The "[non]" voluntar[ness]" of a tax coupled with the "legislative authority" for an "enforced exaction", all combine to set the stage for the governmental abolition of any and all forms of religion, merely by the implementation of a tax. Such a mechanism, devoid of a benign nature, would operate to the exclusion of any and all religious functions not consistent with the whim, or caprice of the government. For a concise dissertation on the non-voluntary aspect of a tax, vide.





Michigan Employment Sec. Commission v. Patt  
4 Mich. App. 228, 144 N.W. 2d 663.

An additional aspect of a tax is the basis for its inception, "legislative authority". Given the legislative authority to enact, the subsequent assessment and the resulting imposition of the tax upon a religious function. clearly is the manifestation of a "nexum" between the state and religion. The very existence of a tax upon a religious function clearly sets in place a mechanism by which the state may, at its pleasure, tax out of existence, any and all sects not in conformity with the state's wishes. Ancillary to that, such tax, being an "enforced contribution" is not only for the support of the government but more importantly, the same is now the precise mechanism by which the state controls such a religious function, and thereby the ability to create or destroy at its pleasure. Assuming *arguendo* there are perfectly legitimate and legal taxes however, this is not one of them.



The prior one-hundred and fifteen(115) year history of a tax-free status, is manifest evidence that, the present assessment is clearly the implementation of such a tax in an arbitrary, capricious, and unlawful manner. Additionally, such a tax(assessment) when viewed in light of the prior tax free status of the Grove Ass. manifests the real motive behind the implementation of such tax, and that being the ever expanding gluttonous avarice of the government.

Further, such assessment is totally whimsical completely uncontrolled, and without any rational basis whatsoever, for its inception. Bearing in mind the grave consequences that will inevitably ensue if the "unambiguous, [ ] enunciat[ion]" of the Constitution is allowed to fall prey to the whimsical caprice of an ever expanding and uncontrolled gluttonous avarice of a dispassionate governmental function. cf. United States v. Woodley, 726 F.2d 1328 (1983).



Further, as the Grove Ass., has set the standard and/or acquired the uncontested status as being tax-exempt(free), that exemption still remains in full force and effect.

The assessment is said to be placed on the Co-tage itself, and not upon the real estate upon which the cottage is situated. However, as is the case herein, the cottage serves a uniquely indispensable religious function at the Grove Camp Meeting Grounds. It is in fact a basic, and absolutely necessary accouterment of the religious function at the Grove Camp Meeting Grounds. As a matter of fact, the uniqueness of the religious activity at the Grove is predicated entirely upon the utilization of the several cottages by the grove members. Further, even viewing the assessment and the implementation of the tax in a light most favorable to the government, and additionally, buttress such governmental argument based upon alleged governmental efficiency, still does not allow the assessment upon the cottage to gain a valid posture and the subsequent



legal position, absent conformity and compliance with the Constitutional mandate forbidding an "establishment of religion", or the ancillary mandate "prohibiting the free exercise thereof". Id. U.S.C..A . Const. Amend. I.

Touching upon the phrase, "governmental efficiency" the Ninth Circuit Court of Appeals in Woodley, supra., is quoted in pertinent part, to wit: "[t]he Court also dispensed quickly with arguments based upon governmental efficiency . . . [C]onvenience and efficiency are not the primary objectives or the hallmarks of democratic government . . . ", Id. Woodley, 726 F. 2d at 1338. To allow for the flagrant violations of the organic law of our land, merely to facilitate the ever expanding gluttonous avarice of the government is tantamount to TREASON.





The view that a long and continuous practice is entitled to a presumption of legality, or that such is entitled to constitutionality, will not stand when confronted with the clear and unambiguous command of the Constitution, or in the alternative, a constitutional prohibition. As herein relates, the case cited by the Woodley court, at 726 F. 2d 1337, quotes United States v. Midwest Oil Co., 236 U.S. 459, 472-73; 35 S.Ct. 309, 312-13; 59 L.Ed.673 (1915), to wit: "government is a practical affair intended for practical men. Both officers, lawmakers and citizens naturally adjust themselves to any long-continued action of the Executive Department on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. (emphasis added)."

That same high court goes on to further illustrate its point as to the fundamental organic law of this nation and how that

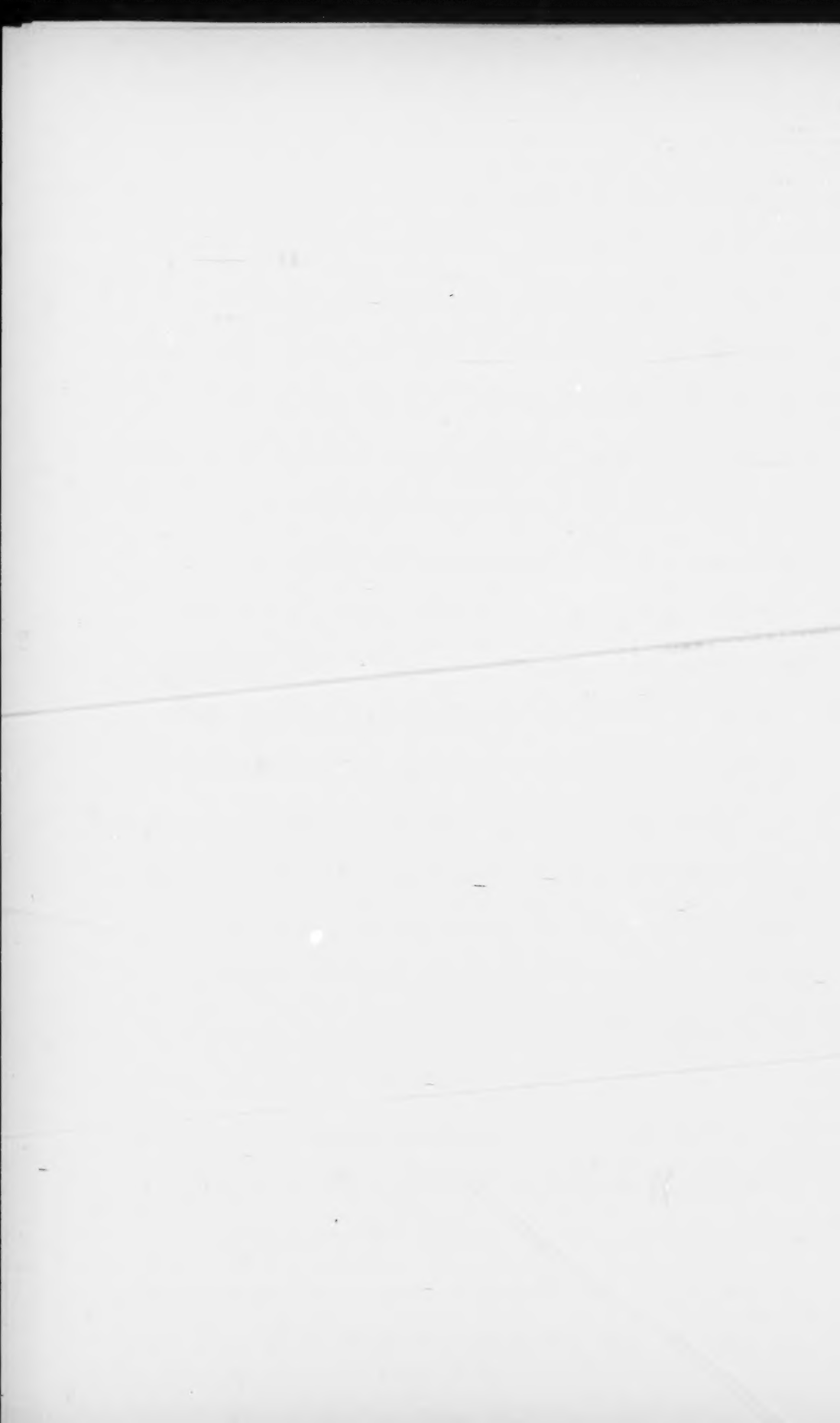


organic law applies to a practice, which is by its very nature repugnant to the Constitution. Once again the Woodley court is quoted in pertinent part. to wit: "[r]ecent Supreme Court discussions of the issue indicate that any practice, no matter how fully accepted or efficient, is subject to the demands of the Constitution which defines powers and . . . sets out just how those powers are to be exercised." Id. Woodley, 726 F.2d 1337, citing INS v. Chadha, 103 S.Ct. 2764, 2781; 77 L.Ed.2d 317(1983);

All things considered, the assessment by the Luzerne County Board of Assessment, and the subsequent implementation does not comport to the Constitution, and is therefore discordant therewith.

#### CONCLUSION

For all the foregoing reasons, Petitioners respectfully demand that this Honorable Court issue a Writ of Certiorari directed to the Supreme Court of Pennsylvania to review the judgment of that Court in this matter.



IN THE SUPREME COURT OF PENNSYLVANIA  
EASTERN DISTRICT

HELMUT RAMPP, et ux.: NO. 247 E.D. Misc.  
: Doc. 1986  
v. :  
:  
LUZERNE COUNTY ASS. :  
AND VALUATION BOARD :

ORDER

PER CURIAM

AND NOW, this 18th day of September  
1987, the Petition for review is treated as a  
Petition for Allowance of Appeal and, as such,  
is denied.



HELMUT A.J. RAMPP : IN THE COURT OF COMMON  
JUDITH ANN RAMPP, : PLEAS OF LUZERNE CO.  
Appellants : CIVIL ACTION LAW  
:  
Vs. : NO. 4858-C of 1985  
:  
LUZERNE COUNTY ASS. : Before: Brominski, J.,  
and VALUATION BD. : Misc. Ct. Judge  
Appellees :

O R D E R

NOW, this 25 day of February, 1986, at  
10:30 O'Clock A.M., it is hereby ORDERED,  
ADJUDGED and DECREED that the Appeal of  
Helmut Rampp and Judith Rampp, his wife, from  
the Luzerne County Assessment and Valuation  
for the year 1986 is hereby DISMISSED.

BY THE COURT

/s/ Brominski, J.

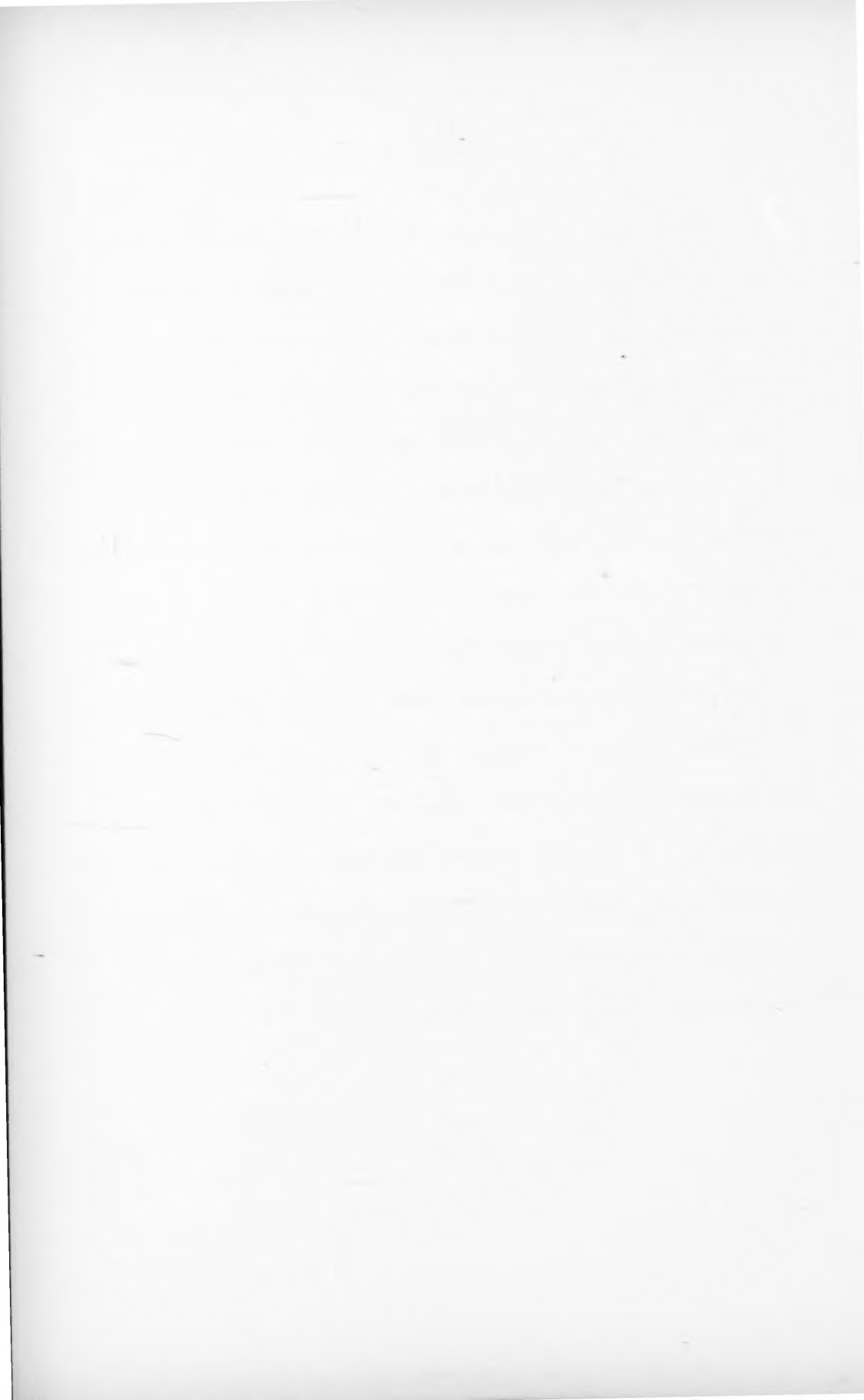




## DECISION

This matter comes before the Court upon the appeal of Helmut Rampp and Judith Rampp his wife, from a decision of the Board of [Ass.] Appeals denying the Rampps' appeal from assessment for the tax year 1986.

On November 8, 1985, Helmut Rampp and Judith Rampp, herein referred to as Appellant filed an appeal from the determination of the Luzerne County Board of Assessment and Appeal. Appellants allege that they own an interest in personalty [isc] known as "cottage No. 33" of Patterson Grove Camp Grounds in Fairmont Township, Luzerne County, Pennsylvania. On October 10, 1985, the Board denied Appellants appeal. Thereafter, Appellants timely filed an appeal with this Court.



On March 17, 1977, the Appellants purchased a certain cottage known as Cottage No. 33 at the Patterson Grove Camp Grounds. The document transferring the interest in the aforesaid property was signed by one Adolph Kika. For the sum of Twenty-Seven Hundred and Fifty (\$2750.00) Dollars the undersigned "does hereby grant, sell, transfer and deliver unto A.J. Rampp and Judith Rampp the following Cottage at Patterson Grove Playground, known as Cottage No. 33." On or about the same time the Patterson Grove Camp Meeting Association leased to Helmut Rampp and Judith Rampp property known as Lot No. 33. The lease was for a period of one year and would automatically renew itself when the annual rent is paid and further conditioned on the leasee's adherence to the rules and regulations of the Association.

The Patterson Grove Camp Meeting Association land is located in Farimont Township. It is on approximately 27.7 acres of land and consists of 107 buildings.



There are a number of am-in structures including a multi-unit residential building, a tabernacle building, a recreation building and approximately 102 individual one or two story cottages.

Appellants' cottage consists of two rooms, one upstairs for sleeping and one downstairs room. There is no heat on[sic] the property and only recently were septic systems installed. According to the rules and regulations of the Association, Appellants can use the property only from April through October. Appellants testified, however, that they basically use the property only during a two week camp meeting. The camp meeting consists of religious services. This is usually held near the end of August. A special pastor will be hired by the Board of Trustees. Additionally, the Board will hire an evangelist and a youth leader for the children. During this two week camp meeting, no other activities are permitted.



Working on your cottage, mowing grass, riding bicycles and going swimming are not allowed. Appellants testified that they purchased the cottage specifically for use in conjunction with the camp meeting.

Appellants objected to the assessment and raised basically two arguments. It is contended by the Appellants that the assessment is arbitrary and capricious and not founded in fact because:

A. The Appellants do not own an interest in the real estate but simply to make a lease with the landowner, The Patterson Grove Camp Meeting Association, which right is terminable at the will of the landowner.

B. That the imposition of an assessment of taxes is a violation of the separation between Church and State.

#### DISCUSSION

72 P.S. § 5020/201 entitled Subject of Taxation Enumerated states:





"The following subjects and properties shall, as hereinafter provided, be valued and assessed, and subject to taxation for all County, City, Borough, Town, Township, School and poor purposes at the annual rate:

- a) all real estate, to wit: Houses, house trailers, and mobile homes, buildings permanently attached to land or connected with water, gas, electric or sewage facilities, buildings, lands, lots of ground and manufactories of all kinds, furnaces, forges, bloomeries, breweries, tan yards, fisheries and ferries, wharves. . . and all other real estate not exempt by law from taxation... "

Appellants contend that if the Court determines that this is a leasehold interest that such interest should not be subject to taxation. Appellants' argument, however, is misplaced. The assessment is not placed on the lease which the Appellants have purchased from the Patterson Grove Camp Meeting Ass. and which is renewed on a yearly basis so long as Appellants pay the sum of Seventy (\$70.00) Dollars annual rental and further meet the conditions of the Association. Rather, the assessment is on the building known as Cottage No. 33 . . .



Appellants contend that the ownership of the property is so tenuous as to constitute a license. Admittedly, there are a number of conditions that accompany the lease agreement between the Association and Appellants. However, those conditions only affect the lease of the land and not the lease of the buildings. Moreover, it is held that in its precise legal sence, tha word "property" is an aggregate of rights or legal relations that an owner has in or with respect to a physical object. Petition of Borough of Boyertown, 77 Pa. Cmwlth. 357, 466 A.2d 239 (1983). Property as a common law concept is the right of any person to possess, use, enjoy and dispose of a thing. Wilcox v. Penn Mutual Life Ins. Co., 357 Pa. 581, 55 A.2d 521 (1947). Certainly Appellants herein have the right of possession in connection with Cottage No. 33. They are limiten in their use of the property only between the months of October and April. Although Appellants do not use the property except for the two or three week period during the camp meeting, there is



no restriction on the use of the property for five months. Moreover, the fact that they can only use the property for five months out of the year does not negate ownership. Under the concept of time-sharinf, which is currently very popular, a property owner purchases a one or two week period out to the year in which he can utilize certain property. He is nevertheless the owner of that particular property for a short period of time.

Petitioners certainly can use the property, and can enjoy the property, not only during the camp meeting but at any other time between the months of May through September. The right to dispose of that item is also an indicia of property. Appellants like their predecessors in interest, have the right to sell the property. Upon the death of either husband or wife, the surviving party shall obtain full ownership of Cottage No. 33. They can convey that interest to their children.



Appellants contend that the tazation is improper pursuant to 72 P.S. [ § ] 5020/204(a) which exempts "all churches, meeting houses or other regular places of stated worship with the ground thereto annexrd necessary for the occupancy and enjoyment of the same. . . ." The burden is upon the owner which claims the property is exempt as an actual place of religious worship to bring itself clearly within the exempting statute. Philadelphia v. Overbrook Park Congregation, 171 Pa. Super. Ct. 581, 91 A. 2d 310 (1952). The courts of the Commonwealth have consistently held that only that part of a church's real estate which is necessary for the occupancy and enjoyment of the church building is entitled to exemption; and unless the entire lot is used for such purposes, it is not entitled to exemption. In re: Appeal of the Open Door Baptist Church, 437 A. 2d 1291 (1981) and The Church of Our Savior v. Montgomery Co., 10 W.N.C. 170 (1881), the court interpreting the Constitution of 1873 stated





"we do not think that a parsonage can be considered as a natural place of wordhip, though erected on grounds appurtant to a church, but not a part thereof", 10 W.N.C. at 171.

We also find that the case of Christian Literature Crusade, Inc. v. Board of Ass., 17 Pa. Cmwlth. 63, 328 A.2d 896 (1974) is factually dissimiliar. Under the Christian Literature Crusade case the buildings which were taxed were residential buildings used by the organization for living quarters of the members and their families who were being trained in communal life which was required by the organization after members had graduated from the training program. In the case sub judice there is no requirement that the participants in the camp meeting maintain a cottage on the premises. Nor are the cottages maintained by persons being trained by the organization. We find that the facts are clearly distinguishable.



Finally, Appellants contend that any tax on the property is question is a violation of the sepatation between Church and state. Appellants, however, fail to cite any cases in suppoer of their contention. What was stated in appeal of the Open Door Baptist Church, supra. is equally applicable here. [quote omitted]      END OF DECISION.



HELMUT RAMPP and : IN THE COMMONWEALTH  
JUDITH RAMPP : COURT OF  
Appellants : PENNSYLVANIA  
:  
v. :  
:  
LUZERNE COUNTY ASS. :  
and VALUATION BD. : No. 830 C.D. 1986  
Appellee :

BEFORE:

HONORABLE JAMES CRUMLISH, JR., P.J.  
HONORABLE THEODORE O. ROGERS, Sr.J.  
HONORABLE JACOB KALISH, Sr.J.

SUBMITTED ON BRIEFS - July 18, 1986

OPINION NOT REPORTED